

REMARKS

Summary

Claims 1-3 and 6 were pending. Claims 1-3 were rejected and Claim 6 was objected to in the present Office action. Claim 1 has been amended and new Claim 7 has been introduced. No new matter has been added.

Comments on Examiner's Response

The Applicant respectfully traverses the Examiner's citation of a dictionary definition of "swing". A copy of the page from the Merriam-Webster's Collegiate Dictionary is appended, where the first two definitions of "swing" are "to cause to move vigorously through a wide arc or circle <an ax> and "to cause to sway to and fro". The third definition is "to cause to turn on [about] an axis." A shaft in a motor is said to rotate about the axis thereof, not to swing on the axis of the motor. As set forth in the headnotes of the report of Phillips v. AWH Corp., 75 USPQ2d 1321 (CA FC 2005) (en banc), and more fully explained in the decision:

Methodology for claim interpretation in which specification is consulted only after ordinary meaning or meanings of disputed claim term is derived from dictionary, treatise, or other source is not proper approach to claim construction, since this approach improperly restricts role of specification, which is single best guide to meaning of claim terms, since elevating dictionary meaning to such prominence improperly focuses inquiry on abstract meaning of words, rather than on meaning of claim terms within context of patent, since dictionaries provide expansive array of definitions, such that use of dictionary may expand protection beyond what is properly afforded by patent, since different dictionaries may contain somewhat different sets of definitions for same words, and since authors of dictionaries may simplify ideas to communicate them most effectively to public, and thus may choose meaning that is not pertinent to understanding of particular claim language; although dictionaries and similar sources may be consulted in order to understand commonly understood meanings of words and technology underlying claimed inventions, dictionary definitions may not be relied on to construe claim term if they contradict any definition found in or ascertained by reading of patent documents.

The Examiner has failed to show that the word “swingably” as used in the specification would be confused by a person skilled in the art as meaning rotation about an axis as performed by a rotor in a motor.

However, Claim 1 has been amended to use what the Applicant believes is a fully equivalent description of the same subject matter.

The Applicant takes this opportunity to traverse the Examiner's statement in the Advisory action of July 26, 2005 that “the limitations ‘laterally’ and ‘lateral’ are new matter...since the Applicant admitted that ‘laterally’ was a translation error”. The Applicant respectfully submits that the effect of the mistranslation error was to unduly restrict the wording of the specification as the element is “swingably movable rather than merely laterally movable” (RCE submission, April 8, 2004, page 8, lines 10-11). As such the substitution of the word “swingably” for the word “laterally” subsumes the meaning of the latter in the former.

Objection

Claim 6 was objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. In view of the amendment to Claim 1, such that the claims is allowable, Claim 6 is allowable, without more, as a dependent claim.

Rejection of Claims

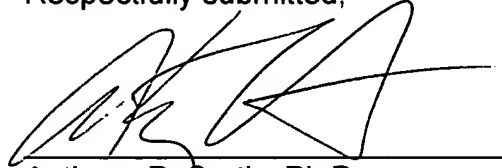
Claims 1 and 3 were rejected under 35 U.S.C. §102(e) as being anticipated by Levin et al. (U.S. 6,154,201; “Levin”). The Applicant respectfully traverses this rejection on the basis that a *prima facie* case of anticipation has not been made out. However, in order to expedite the issuance of a patent on this application, Claim 1 has been amended to describe the claimed subject matter in an altogether equivalent way.

Conclusion

In view of the amendments and arguments above, Applicant respectfully submits that all of the pending claims are in condition for allowance.

If for any reason the Examiner is unable to allow the application in the next Office Action and believes that a telephone interview would be helpful to resolve any remaining issues, she is respectfully requested to contact the undersigned agent or attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'AP Curtis', written over a horizontal line.

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